

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

**ROBERT SALLEY and
BONITA CUNNINGHAM**

PLAINTIFFS

v.

CAUSE NO: 4:18 -CV-66-MPM-JMV

**WEBSTER COUNTY, MISSISSIPPI, SHERIFF TIM MITCHELL,
IN HIS OFFICIAL CAPACITY, CHIEF DEPUTY DILLON
CATES, IN HIS INDIVIDUAL AND OFFICIAL CAPACITIES,
and DEPUTY BLAKE LOVE, IN HIS INDIVIDUAL AND OFFICIAL
CAPACITIES**

DEFENDANTS

MOTION FOR IMMUNITY PROTECTION

NOW COME DEFENDANTS, WEBSTER COUNTY (Officially), SHERIFF TIM MITCHELL (Officially), DEPUTY DILLON CATES (Officially and Individually), and DEPUTY BLAKE LOVE (Officially and Individually), by counsel, and move the Court to enter an order staying all discovery unrelated to Defendants' claims of immunity under both state and federal law and consideration of abstention pending disposition of claims in state court.

I. BACKGROUND

Defendants have two pending dispositive motions [**Docs. 9 & 11**] before the Court addressing the individually-named deputies' entitlement to qualified immunity, dismissal under the Mississippi Tort Claims Act regarding Plaintiffs' state law claims and abstention of federal jurisdiction pending disposition of claims in state court. To preserve the Court's and parties' resources, a motion staying discovery and a protective order against answering Plaintiffs' pending discovery requests is proper.

II. AUTHORITY

Both federal and state immunities apply the same principle, such that “[i]mmunity is an entitlement not to stand trial rather than a mere defense to liability and, therefore, should be resolved at the earliest possible stage of litigation.”¹ Because Defendants raise an immunity defense, Local Uniform Civil Rule 16(b)(3)(B) automatically stays all discovery unrelated to the issue of the immunity defenses articulated in Defendants’ Immunity Motion.

III. RELIEF FROM SEPARATE BRIEF

Defendants request that they be relieved from submitting a separate memorandum brief under Uniform Local Rule 7(b)(4), as the instant motion is self-explanatory, and the requested relief is contemplated by the Court’s standard initial order under Uniform Local Rule 16(b)(3)(B).²

WHEREFORE, DEFENDANTS RESPECTFULLY PRAY that the Court issue a stay order authorizing only discovery related to the specific immunity issues raised by the Defendants, to wit:

1. Qualified Immunity for each individual officer;
2. State Law Individual Immunity for each individual officer;
3. State Law Immunity under *Miss. Code Ann.* §11-46-9(1)(c); and,
4. *Younger* Abstention.

FILED this the 16th day of April, 2018.

¹ *Mitchell v. City of Greenville*, 846 So. 2d 1028 (Miss. 2003) (citing *Saucier v. Katz*, 533 U.S. 194, 200-01, 121 S. Ct. 2151, 150 L. Ed. 2d 272 (2001)).

² The Rule states in relevant part that “ Filing a motion to compel arbitration, or a motion asserting an immunity defense or jurisdictional defense stays the attorney conference and disclosure requirements and all discovery, pending the court’s ruling on the motion, including any appeal.”

JACKS | GRIFFITH | LUCIANO, P.A.

By: /s/ **Daniel J. Griffith**
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CERTIFICATE OF SERVICE

I, Daniel J. Griffith, attorney of record for Defendants do hereby certify that I have this day caused a true and correct copy of the above and foregoing *Motion for Immunity Protection* to be delivered by the ECF Filing System which gave notice to all counsel of record who have appeared herein.

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DATED this 16th day of April, 2018.

/s/ **Daniel J. Griffith**
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